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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/548,414	04/13/2000	Takahiro Oguchi	P/1071-985	7261

7590

07/22/2003

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EXAMINER

GARCIA, JOANNIE A

ART UNIT

PAPER NUMBER

2823

DATE MAILED: 07/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/548,414

Applicant(s)

OGUCHI, TAKAHIRO

Examiner

Joannie A García

Art Unit

2823

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 June 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 30 June 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): 35 U.S.C. 112, second paragraph.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attached Office Action.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.Claim(s) objected to: none.Claim(s) rejected: 1-3, 9, 10, 12, and 16-18.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Art Unit: 2823

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 9, 10, 12, and 16-18, remain rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art in combination with Cleeves.

The rejection is maintained as stated in the Office Action mailed 12-31-02, and as stated below.

Applicant argues that the Examiner has failed to quote 35 U.S.C. 103(a) in the rejection of claims 1-3, 9, 10, 12, and 16. However, the Examiner quoted 35 U.S.C. 103(a) in the rejection of claims 1-3, 9, 10, 12, and 16 in the Office Action mailed 12-31-02, Page 3, lines 1-2, and in the Office Action mailed 05-08-02, Page 2, lines 14-20.

Applicant argues that Cleeves does not disclose removing the etching stop layer 214. However, Cleeves is not relied upon for that purpose. Cleeves is relied upon for disclosing an etch stop layer 214 on a top surface of a recessed part in a substrate (Figure 2, and Column 4, lines 15-20), wherein said etch stop layer can be made by either insulating material such as silicon dioxide, or by conductive material such as titanium. Furthermore, Cleeves discloses removal of etch stop layer 214 in Figure 2.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-0956. **See MPEP 203.08.**

Art Unit: 2823


Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner J. Garcia whose telephone number is (703) 306-5733.

The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Olik Chaudhuri can be reached on (703) 306-2794. The fax number for this group is (703) 308-7722 (and 7724), and (703) 305-3431 (and 3432). MPEP 502.01 contains instructions regarding procedures used in submitting responses by facsimile transmission.



JAG
7/21/03



George Fourson
Primary Examiner